

AMENDED IN ASSEMBLY MAY 1, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2537**

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**Introduced by Assembly Member V. Manuel Pérez**

February 24, 2012

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An act to amend Sections 48902 and 48915 of, and to add Section 48900.05 to, the Education Code, relating to pupil discipline.

LEGISLATIVE COUNSEL'S DIGEST

AB 2537, as amended, V. Manuel Pérez. Pupil discipline: suspensions and expulsions.

(1) Existing law requires the principal of a school or the principal's designee to notify the appropriate law enforcement agencies of the county or city in which the school is situated of certain unlawful acts committed by a pupil that may result in suspension, expulsion, or criminal liability of the pupil, as specified. Existing law provides that a willful failure to make a report required by these provisions is an infraction punishable by a fine of not more than \$500.

This bill would ~~authorize, rather than require, the principal or the principal's designee to notify the appropriate law enforcement agencies under those circumstances, and would delete the provision making a violation of that reporting requirement an infraction.~~

(2) Existing law authorizes the governing board of a school district to expel a pupil upon the recommendation of a principal, superintendent of schools, or by a hearing officer, as specified, if it finds that the pupil committed specified acts. Existing law requires that decision to expel a pupil to be based on a finding that other means of correction are not feasible or have repeatedly failed to bring about proper conduct, or due

to the nature of the act, the presence of the pupil will cause a continuing danger to the physical safety of the pupil or others, or both.

This bill would instead require that the decision to expel a pupil *for those specified acts* be based on both of those findings.

(3) Existing law requires the principal or superintendent of schools to immediately suspend and recommend expulsion of a pupil who he or she determines has committed certain acts at school or at a school activity off school grounds, and requires the governing board of the school district to order the pupil expelled upon finding that the pupil committed the act. The acts for which a pupil is required to be immediately suspended and expelled consist of the possessing, selling, or otherwise furnishing of a firearm, brandishing a knife at another person, unlawfully selling a controlled substance, committing or attempting to commit a sexual assault, and ~~possession of~~ *possessing* an explosive. *Existing law specifies other acts for which the principal or superintendent of schools is required to recommend expulsion of a pupil, unless he or she determines that expulsion is inappropriate, but for which the governing board of the school district has discretion as to whether to order the expulsion of the pupil.*

This bill would delete the requirement that the principal or superintendent of schools immediately suspend a pupil for any of those acts. The bill would limit the requirement of mandatory expulsion to pupils who have been determined to have possessed, *sold, or otherwise furnished* a firearm ~~or, possessed an explosive at school or at a school activity off school grounds,~~ *subject to specified exceptions, committed or attempted to commit a sexual assault, or committed a sexual battery at school or at a school activity off school grounds.* The bill would include the acts of brandishing a knife at another person with the intent to harm that person and unlawfully selling a controlled substance, with certain exceptions, among the acts for which the principal or superintendent of schools would be required to recommend expulsion, except as specified, but for which the governing board of the school district would have discretion to order the expulsion of the pupil. ~~The bill would authorize, but not require, a principal or superintendent of schools to make a recommendation for expulsion for any of the other acts described above.~~

This bill would declare the intent of the Legislature that ~~these provisions grant to school districts the discretion to suspend or expel a pupil for any of the acts enumerated in these provisions, except as~~

~~provided~~ the acts enumerated in specified provisions form the exclusive bases for the imposition of suspension or expulsion .

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 48900.05 is added to the Education Code,  
2 to read:

3     48900.05. It is the intent of the Legislature that the acts  
4 enumerated in this article form the exclusive bases for the  
5 imposition of suspension or expulsion.

6     SEC. 2. Section 48902 of the Education Code is amended to  
7 read:

8     48902. (a) The principal of a school or the principal's designee  
9 shall, prior to the suspension or expulsion of any pupil, notify the  
10 appropriate law enforcement authorities of the county or city in  
11 which the school is situated, of any acts of the pupil that may  
12 violate Section 245 of the Penal Code.

13     (b) The principal of a school or the principal's designee shall,  
14 within one schoolday after suspension or expulsion of any pupil,  
15 notify, by telephone or any other appropriate method chosen by  
16 the school, the appropriate law enforcement authorities of the  
17 county or the school district in which the school is situated of any  
18 acts of the pupils that may violate subdivision (c) or (d) of Section  
19 48900.

20     (c) Notwithstanding subdivision (b), the principal of a school  
21 or the principal's designee shall notify the appropriate law  
22 enforcement authorities of the county or city in which the school  
23 is located of any acts of a pupil that may involve the possession  
24 or sale of narcotics or of a controlled substance or a violation of  
25 Section 626.9 or 626.10 of the Penal Code. The principal of a  
26 school or the principal's designee shall report any act specified in  
27 paragraph (1) or (5) of subdivision (c) of Section 48915 committed  
28 by a pupil or nonpupil on a schoolsite to the city police or county  
29 sheriff with jurisdiction over the school and the school security  
30 department or the school police department, as applicable.

31     (d) A principal, the principal's designee, or any other person  
32 reporting a known or suspected act described in subdivision (a) or  
33 (b) is not civilly or criminally liable as a result of making any

1 report authorized by this article unless it can be proven that a false  
2 report was made and that the person knew the report was false or  
3 the report was made with reckless disregard for the truth or falsity  
4 of the report.

5 ~~(e) The willful failure to make any report required by this section~~  
6 ~~is an infraction punishable by a fine to be paid by the principal or~~  
7 ~~principal's designee who is responsible for the failure of not more~~  
8 ~~than five hundred dollars (\$500).~~

9 ~~(f)~~

10 (e) The principal of a school or the principal's designee reporting  
11 a criminal act committed by a schoolage individual with  
12 exceptional needs, as defined in Section 56026, shall ensure that  
13 copies of the special education and disciplinary records of the pupil  
14 are transmitted, as described in paragraph (9) of subsection (k) of  
15 Section 1415 of Title 20 of the United States Code, for  
16 consideration by the appropriate authorities to whom he or she  
17 reports the criminal act. Any copies of the pupil's special education  
18 and disciplinary records may be transmitted only to the extent  
19 permissible under the federal Family Educational Rights and  
20 Privacy Act of 1974 (20 U.S.C. Sec. 1232g et seq.).

21 *SEC. 3. Section 48915 of the Education Code is amended to*  
22 *read:*

23 48915. (a) (1) Except as provided in subdivisions (c) and (e),  
24 the principal or the superintendent of schools shall recommend  
25 the expulsion of a pupil for any of the following acts committed  
26 at school or at a school activity off school grounds, unless the  
27 principal or superintendent ~~finds that expulsion is inappropriate,~~  
28 ~~due to the particular circumstance determines that expulsion should~~  
29 ~~not be recommended under the circumstances or that an alternative~~  
30 ~~means of correction would address the conduct:~~

31 ~~(1)~~

32 (A) Causing serious physical injury to another person, except  
33 in self-defense.

34 ~~(2)~~

35 (B) Possession of any knife or other dangerous object of no  
36 reasonable use to the pupil.

37 ~~(3)~~

38 (C) Unlawful possession of any controlled substance listed in  
39 Chapter 2 (commencing with Section 11053) of Division 10 of the  
40 Health and Safety Code, except for *either of the following: the*

1 (i) *The first offense for the possession of not more than one*  
2 *avoirdupois ounce of marijuana, other than concentrated cannabis.*

3 (ii) *The possession of over-the-counter or prescription*  
4 *medication.*

5 (D) *Unlawfully selling a controlled substance listed in Chapter*  
6 *2 (commencing with Section 11053) of Division 10 of the Health*  
7 *and Safety Code.*

8 ~~(4)~~

9 (E) *Robbery or extortion.*

10 ~~(5)~~

11 (F) *Assault or battery, as defined in Sections 240 and 242 of*  
12 *the Penal Code, upon any school employee.*

13 (G) *Brandishing a knife at another person with the intent to*  
14 *harm that person.*

15 (2) *If the principal or the superintendent of schools makes a*  
16 *determination as described in paragraph (1), he or she is*  
17 *encouraged to do so as quickly as possible to ensure that the pupil*  
18 *does not lose instructional time.*

19 (b) *Upon recommendation by the principal; or the superintendent*  
20 *of schools, or by a hearing officer or administrative panel appointed*  
21 *pursuant to subdivision (d) of Section 48918, the governing board*  
22 *may order a pupil expelled upon finding that the pupil committed*  
23 *an act listed in subdivision (a) or in subdivision (a), (b), (c), (d),*  
24 *or (e) of Section 48900. A decision to expel a pupil for an act*  
25 *listed in subparagraph (A), (B), (C), (E), or (F) of paragraph (1)*  
26 *of subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of*  
27 *Section 48900 shall be based on a finding of one or both of the*  
28 *following:*

29 (1) *Other means of correction are not feasible or have repeatedly*  
30 *failed to bring about proper conduct.*

31 (2) *Due to the nature of the act, the presence of the pupil causes*  
32 *a continuing danger to the physical safety of the pupil or others.*

33 (c) *The principal or superintendent of schools shall immediately*  
34 *suspend, pursuant to Section 48911, and shall recommend*  
35 *expulsion of a pupil that he or she determines has committed any*  
36 *of the following acts at school or at a school activity off school*  
37 *grounds:*

38 (1) *Possessing, selling, or otherwise furnishing a firearm. This*  
39 *subdivision does not apply to an act of possessing a firearm if the*  
40 *pupil had obtained prior written permission to possess the firearm*

1 from a certificated school employee, which is concurred in by the  
2 principal or the designee of the principal, *or to the act of possessing*  
3 *an imitation firearm, as defined in subdivision (m) of Section*  
4 *48900.* This subdivision applies to an act of possessing a firearm  
5 only if the possession is verified by an employee of a school  
6 district.

7 ~~(2) Brandishing a knife at another person.~~

8 ~~(3) Unlawfully selling a controlled substance listed in Chapter~~  
9 ~~2 (commencing with Section 11053) of Division 10 of the Health~~  
10 ~~and Safety Code.~~

11 ~~(4)~~

12 (2) Committing or attempting to commit a sexual assault as  
13 defined in subdivision (n) of Section 48900 or committing a sexual  
14 battery as defined in subdivision (n) of Section 48900.

15 ~~(5)~~

16 (3) Possession of an explosive. *This subdivision does not apply*  
17 *to an act of possessing a firecracker. As used in this paragraph,*  
18 *“firecracker” means a device primarily used to make noise in*  
19 *displays and celebrations, and not as a weapon.*

20 (d) The governing board shall order a pupil expelled upon  
21 finding that the pupil committed an act listed in subdivision (c),  
22 and shall refer that pupil to a program of study that meets all of  
23 the following conditions:

24 (1) Is appropriately prepared to accommodate pupils who exhibit  
25 discipline problems.

26 (2) Is not provided at a comprehensive middle, junior, or senior  
27 high school, or at any elementary school.

28 (3) Is not housed at the schoolsite attended by the pupil at the  
29 time of suspension.

30 (e) Upon recommendation by the principal; *or the* superintendent  
31 of schools, or by a hearing officer or administrative panel appointed  
32 pursuant to subdivision (d) of Section 48918, the governing board  
33 may order a pupil expelled upon finding that the pupil, at school  
34 or at a school activity off of school grounds violated subdivision  
35 (f), (g), (h), (i), (j), (k), *(l)*, or (m) of Section 48900, or Section  
36 48900.2, 48900.3, or 48900.4, and ~~either~~ *both* of the following:

37 (1) That other means of correction are not feasible or have  
38 repeatedly failed to bring about proper conduct.

1 (2) That due to the nature of the violation, the presence of the  
2 pupil causes a continuing danger to the physical safety of the pupil  
3 or others.

4 (f) The governing board shall refer a pupil who has been  
5 expelled pursuant to subdivision (b) or (e) to a program of study  
6 which meets all of the conditions specified in subdivision (d).  
7 Notwithstanding this subdivision, with respect to a pupil expelled  
8 pursuant to subdivision (e), if the county superintendent of schools  
9 certifies that an alternative program of study is not available at a  
10 site away from a comprehensive middle, junior, or senior high  
11 school, or an elementary school, and that the only option for  
12 placement is at another comprehensive middle, junior, or senior  
13 high school, or another elementary school, the pupil may be  
14 referred to a program of study that is provided at a comprehensive  
15 middle, junior, or senior high school, or at an elementary school.

16 (g) As used in this section, “knife” means any dirk, dagger, or  
17 other weapon with a fixed, sharpened blade fitted primarily for  
18 stabbing, a weapon with a blade fitted primarily for stabbing, a  
19 weapon with a blade longer than 3 ½ inches, a folding knife with  
20 a blade that locks into place, or a razor with an unguarded blade.

21 (h) As used in this section, the term “explosive” means  
22 “destructive device” as described in Section 921 of Title 18 of the  
23 United States Code.

24 ~~SECTION 1. Section 48900.05 is added to the Education Code,~~  
25 ~~to read:~~

26 ~~48900.05. It is the intent of the Legislature that the acts~~  
27 ~~enumerated in this article form the exclusive bases for the~~  
28 ~~imposition of suspension or expulsion. The Legislature intends~~  
29 ~~that this article grant to school districts the discretion to suspend~~  
30 ~~or expel a pupil for any of the acts enumerated in this article, except~~  
31 ~~those set forth in subdivision (c) of Section 48915.~~

32 ~~SEC. 2. Section 48902 of the Education Code is amended to~~  
33 ~~read:~~

34 ~~48902. (a) The principal of a school or the principal’s designee~~  
35 ~~may, before the suspension or expulsion of any pupil, notify the~~  
36 ~~appropriate law enforcement authorities of the county or city in~~  
37 ~~which the school is situated, of any acts of the pupil that may~~  
38 ~~violate Section 245 of the Penal Code.~~

39 ~~(b) The principal of a school or the principal’s designee may,~~  
40 ~~within one schoolday after suspension or expulsion of any pupil,~~

1 notify, by telephone or any other appropriate method chosen by  
2 the school, the appropriate law enforcement authorities of the  
3 county or the school district in which the school is situated of any  
4 acts of the pupils that may violate subdivision (c) or (d) of Section  
5 48900.

6 (e) ~~Notwithstanding subdivision (b), the principal of a school~~  
7 ~~or the principal's designee may notify the appropriate law~~  
8 ~~enforcement authorities of the county or city in which the school~~  
9 ~~is located of any acts of a pupil that may involve the possession~~  
10 ~~or sale of narcotics or of a controlled substance or a violation of~~  
11 ~~Section 626.9 or 626.10 of the Penal Code. The principal of a~~  
12 ~~school or the principal's designee may report any act specified in~~  
13 ~~paragraph (1) or (5) of subdivision (c) of Section 48915 committed~~  
14 ~~by a pupil or nonpupil on a school site to the city police or county~~  
15 ~~sheriff with jurisdiction over the school and the school security~~  
16 ~~department or the school police department, as applicable.~~

17 (d) ~~A principal, the principal's designee, or any other person~~  
18 ~~reporting a known or suspected act described in subdivision (a) or~~  
19 ~~(b) is not civilly or criminally liable as a result of making any~~  
20 ~~report authorized by this article unless it can be proven that a false~~  
21 ~~report was made and that the person knew the report was false or~~  
22 ~~the report was made with reckless disregard for the truth or falsity~~  
23 ~~of the report.~~

24 (e) ~~The principal of a school or the principal's designee reporting~~  
25 ~~a criminal act committed by a schoolage individual with~~  
26 ~~exceptional needs, as defined in Section 56026, may ensure that~~  
27 ~~copies of the special education and disciplinary records of the pupil~~  
28 ~~are transmitted, as described in paragraph (6) of subsection (k) of~~  
29 ~~Section 1415 of Title 20 of the United States Code, for~~  
30 ~~consideration by the appropriate authorities to whom he or she~~  
31 ~~reports the criminal act. Any copies of the pupil's special education~~  
32 ~~and disciplinary records may be transmitted only to the extent~~  
33 ~~permissible under the federal Family Educational Rights and~~  
34 ~~Privacy Act of 1974 (20 U.S.C. Sec. 1232g et seq.).~~

35 SEC. 3. ~~Section 48915 of the Education Code is amended to~~  
36 ~~read:~~

37 48915. (a) ~~Except as provided in subdivisions (c) and (e), the~~  
38 ~~principal or the superintendent of schools may recommend the~~  
39 ~~expulsion of a pupil for any of the following acts committed at~~  
40 ~~school or at a school activity off school grounds:~~



1 ~~(1) Causing serious physical injury to another person, except~~  
2 ~~in self-defense.~~

3 ~~(2) Possession of any knife or other dangerous object of no~~  
4 ~~reasonable use to the pupil.~~

5 ~~(3) Unlawful possession of any controlled substance listed in~~  
6 ~~Chapter 2 (commencing with Section 11053) of Division 10 of the~~  
7 ~~Health and Safety Code, except for the first offense for the~~  
8 ~~possession of not more than one avoirdupois ounce of marijuana,~~  
9 ~~other than concentrated cannabis.~~

10 ~~(4) Unlawfully selling a controlled substance listed in Chapter~~  
11 ~~2 (commencing with Section 11053) of Division 10 of the Health~~  
12 ~~and Safety Code.~~

13 ~~(5) Robbery or extortion.~~

14 ~~(6) Assault or battery, as defined in Sections 240 and 242 of the~~  
15 ~~Penal Code, upon any school employee.~~

16 ~~(7) Brandishing a knife at another person.~~

17 ~~(8) Committing or attempting to commit a sexual assault as~~  
18 ~~defined in subdivision (n) of Section 48900 or committing a sexual~~  
19 ~~battery as defined in subdivision (n) of Section 48900.~~

20 ~~(9) Selling or otherwise furnishing a firearm.~~

21 ~~(b) Upon recommendation by the principal, superintendent of~~  
22 ~~schools, or by a hearing officer or administrative panel appointed~~  
23 ~~pursuant to subdivision (d) of Section 48918, the governing board~~  
24 ~~may order a pupil expelled upon finding that the pupil committed~~  
25 ~~an act listed in subdivision (a) or in subdivision (a), (b), (c), (d),~~  
26 ~~or (e) of Section 48900. A decision to expel shall be based on a~~  
27 ~~finding of both of the following:~~

28 ~~(1) Other means of correction are not feasible or have repeatedly~~  
29 ~~failed to bring about proper conduct.~~

30 ~~(2) Due to the nature of the act, the presence of the pupil causes~~  
31 ~~a continuing danger to the physical safety of the pupil or others.~~

32 ~~(c) The principal or superintendent of schools shall recommend~~  
33 ~~expulsion of a pupil that he or she determines has committed either~~  
34 ~~of the following acts at school or at a school activity off school~~  
35 ~~grounds:~~

36 ~~(1) Possession of a firearm. This subdivision does not apply to~~  
37 ~~an act of possessing a firearm if the pupil had obtained prior written~~  
38 ~~permission to possess the firearm from a certificated school~~  
39 ~~employee, which is concurred in by the principal or the designee~~  
40 ~~of the principal. This subdivision applies to an act of possessing~~

~~1 a firearm only if the possession is verified by an employee of a  
2 school district.~~

~~3 (2) Possession of an explosive.~~

~~4 (d) The governing board shall order a pupil expelled upon  
5 finding that the pupil committed an act listed in subdivision (c);  
6 and shall refer that pupil to a program of study that meets all of  
7 the following conditions:~~

~~8 (1) Is appropriately prepared to accommodate pupils who exhibit  
9 discipline problems.~~

~~10 (2) Is not provided at a comprehensive middle, junior, or senior  
11 high school, or at any elementary school.~~

~~12 (3) Is not housed at the school site attended by the pupil at the  
13 time of suspension.~~

~~14 (e) Upon recommendation by the principal, superintendent of  
15 schools, or by a hearing officer or administrative panel appointed  
16 pursuant to subdivision (d) of Section 48918, the governing board  
17 may order a pupil expelled upon finding that the pupil, at school  
18 or at a school activity off of school grounds violated subdivision  
19 (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section  
20 48900.2, 48900.3, or 48900.4, and both of the following:~~

~~21 (1) That other means of correction are not feasible or have  
22 repeatedly failed to bring about proper conduct.~~

~~23 (2) That due to the nature of the violation, the presence of the  
24 pupil causes a continuing danger to the physical safety of the pupil  
25 or others.~~

~~26 (f) The governing board shall refer a pupil who has been  
27 expelled pursuant to subdivision (b) or (e) to a program of study  
28 which meets all of the conditions specified in subdivision (d).  
29 Notwithstanding this subdivision, with respect to a pupil expelled  
30 pursuant to subdivision (e), if the county superintendent of schools  
31 certifies that an alternative program of study is not available at a  
32 site away from a comprehensive middle, junior, or senior high  
33 school, or an elementary school, and that the only option for  
34 placement is at another comprehensive middle, junior, or senior  
35 high school, or another elementary school, the pupil may be  
36 referred to a program of study that is provided at a comprehensive  
37 middle, junior, or senior high school, or at an elementary school.~~

~~38 (g) As used in this section, "knife" means any dirk, dagger, or  
39 other weapon with a fixed, sharpened blade fitted primarily for  
40 stabbing, a weapon with a blade fitted primarily for stabbing, a~~

1 ~~weapon with a blade longer than 3 ½ inches, a folding knife with~~  
2 ~~a blade that locks into place, or a razor with an unguarded blade.~~  
3 ~~(h) As used in this section, the term “explosive” means~~  
4 ~~“destructive device” as described in Section 921 of Title 18 of the~~  
5 ~~United States Code.~~

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